

### **REMARKS**

This reply is submitted in response to the Non-Final Office Action (the “Action”), dated March 1, 2010, issued in connection with this application. Applicants gratefully acknowledge that Claims 2 – 6, 11 and 40 were allowed and Claims 46, 54 and 55 were indicated by the Examiner to be directed to allowable subject matter. Although only Claims 1 – 62 are listed in the Action, review of the prosecution history determined that claims 1-92 are currently pending. In view of the above claim amendments and following remarks, reconsideration by the Examiner and allowance of this application is respectfully requested.

#### **Claim Amendments**

Claims 1, 10, 39, and 46 are presently cancelled. However, Applicants reserve the right to prosecute the cancelled subject matter in a continuing application.

Claims 7, 9, 12, 17, 19, 20, 23, 25-27, 41, 42, 54 and 69 are amended to cover a method for the preparation of a fatty acid metal salt product using an antioxidant-effective amount of a stabilizing oil, as recited in claim 2, or a saponification product that includes an antioxidant-effective amount of a stabilizing oil, as recited in claim 40.

Specifically, claims 7 and 9 are currently amended to eliminate the multiple dependencies originally included in these claims, so that claims 7 and 9 only depend upon the allowable subject matter of claim 6. Claims 12, 17, 19, 20, 23, 25-27 and 69 are currently amended to eliminate the multiple dependencies originally included in these claims, so that they only depend upon the allowable subject matter of claim 2. Claims 41 and 42 are currently amended to eliminate the multiple dependencies originally included in these claims, so that they only depend upon the allowable subject matter of claim 40. Claim 45 is amended to include the stabilizing oil of Claim 46 in the claimed saponification product. Claim 54 is currently amended to depend upon the allowable subject matter of claim 45. Support for these claim amendments is found in the originally filed claims of the instant application. As such, no new matter is added.

#### **Double Patenting Rejection**

Turning to the Office Action, Claims 27 - 39, 41- 45 and 47- 53 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over

claims 1, 12 and 19 – 45 of U.S. Patent No. 7,098,352 (the '352 patent). Specifically, the Action cites the claims in the '352 patent as reading on fatty acid saponification products resulting from reactions using the same reactants as those used in the instant application. This rejection is respectfully traversed in light of the amendments made above, and for the reasons set forth hereinafter.

Claims 27, 41 and 42, and Claims 28 – 39, 43 – 45 and 47 – 53 depending therefrom, are now limited to processes and products that include an antioxidant-effective amount of a stabilizing oil. Because Claims 1, 12 and 19-45 of the '352 patent do not include this reactant, the claims no longer read on Claims 27- 39, 41- 45 and 47- 53 of the present application and the non-statutory obviousness-type double patenting rejection has thus been overcome. Reconsideration by the Examiner and withdrawal of this rejection is respectfully requested.

#### **102(e) Rejection**

Claims 1, 9- 10, 12- 14, 17- 24, 26- 31, 34- 39, 41- 45, 47 - 49, 53, and 56 - 62 are rejected under 35 U.S.C. §102(e) as being anticipated by Strohmaier et al., U.S. Patent No. 6,576,667. Specifically, the Action asserts that Strohmaier et al. teaches a free flowing calcium salt containing polyunsaturated fatty acids, wherein the polyunsaturated fatty acids can be omega-3 and omega-9 fatty acids that can be used to increase fertility in animals, and that are obtained by reacting a feedstock and divalent metal hydroxide. The Action also cites Strohmaier et al. as teaching conducting the process under vacuum pressure to reduce the amount of oxygen, resulting in an improvement in storage stability. This rejection is respectfully traversed in light of the amendments made above and for the reasons set forth hereinafter.

As stated above, Claims 1, 10 and 39 are presently cancelled. Moreover Claims 9, 12, 17, 19, 20, 23, 26, 41, 42 and 45 are currently amended to depend only from Claim 2, which is not rejected in view of the Strohmaier et al. patent. Accordingly, Claims 9, 12- 14, 17-24, 26-31, 34- 38, 41- 45, 47 - 49, 53, and 56 - 62 are directed to allowable subject matter by the patentable features of Claim 2 from which they now solely depend. By cancelling Claims 1, 10 and 39, and amending Claims 9, 12, 17, 19, 20, 23, 26, 41, 42 and 45 in this manner, this rejection of Claims 1, 9-10, 12-14, 17-24, 26-31, 34-39, 41-

45, 47-49, 53 and 56-62 under 35 U.S.C. §102(e) has been overcome. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

**Claims 63-92**

According to the prosecution history of this application, claims 63 – 92 are presently pending but not mentioned in the Action. However, in the Action, the Examiner acknowledges that the claims disclosing the preparation of a fatty acid metal salt product using an antioxidant-effective amount of a stabilizing oil, or a saponification product that includes an antioxidant-effective amount of a stabilizing oil include allowable subject matter. Claims 63 – 68 and 70 – 92 presently depend solely from claims that include this allowable subject matter. Claim 69 is currently amended to depend upon claim 2, which also includes this allowable subject matter. Thus, we respectfully submit that Claims 63– 92 are in condition for allowance. Favorable consideration and allowance of Claims 63 – 92 is therefore respectfully requested.

**Conclusion**

Accordingly, in view of the above claim amendments and the foregoing remarks, this application is now in condition for allowance. Reconsideration is respectfully requested. However, the Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved.

If there are any additional charges in connection with this response, the Examiner is authorized to charge Applicant's Deposit Account No. 50-1943 therefore.

Respectfully submitted,

Date May 25, 2010

By: /Peter J. Butch III/  
Peter J. Butch III, Esq.  
Reg. No. 32,203

Attorneys for Applicant  
Fox Rothschild LLP  
Princeton Pike Corporate Center  
997 Lenox Drive, Bldg. 3  
Lawrenceville, NJ 08648-2311  
Tel.: 609-896-3600  
Fax: 609-896-1469